

alarm monitoring services, based upon the definition of alarm monitoring services in section 275(e) of the 1996 Act.⁴⁴

In the Notice, the Commission said that it “seek[s] to define more clearly the services that are included in the definition of alarm monitoring.”⁴⁵ The Commission tentatively concludes that alarm monitoring services must include “an enhanced or information component.”⁴⁶ Some of the commenters agree with that conclusion but disagree about whether that means that a service possessing those characteristics is alarm monitoring; some of the commenters disagree with that conclusion; some of the commenters agree in part and disagree in part with that conclusion.⁴⁷

The Commission previously concluded that one of U S WEST’s alarm monitoring services, Versanet, possesses an enhanced services component.⁴⁸

⁴⁴ See Comments of U S WEST at 28-31.

⁴⁵ Notice ¶ 69.

⁴⁶ Id.

⁴⁷ NYNEX and SBC agree with the Commission. Comments of NYNEX at 25; Comments of SBC at 18. The Alarm Industry Communications Committee (“AICC”) disagrees with the Commission. It says that even though a service may possess an enhanced services component, it is not alarm monitoring. Comments of AICC at 12-13. Ameritech agrees in part, and disagrees in part, with the Commission. It contends that possessing an enhanced service component is not sufficient; a service must also possess an information component to be alarm monitoring. Comments of Ameritech at 26-27. BellSouth disagrees with AICC and with Ameritech. It says that a service which possesses an enhanced service component is alarm monitoring. Comments of BellSouth at 23. The Commission, Bell Atlantic, BellSouth, NYNEX, SBC, and Ameritech contend that the provision of underlying telecommunications services for the transport of alarm monitoring signals is not alarm monitoring. Notice ¶ 69; Comments of Bell Atlantic at 13; Comments of BellSouth at 22; Comments of NYNEX at 25; Comments of SBC at 18; Comments of Ameritech at 27.

⁴⁸ In the Matter of Applied Spectrum Technologies, Inc., Petition for Declaratory Ruling Under § 64.702 of the Commission’s Rules Regarding the Status of “Spread

BellSouth agrees that spread spectrum services like Versanet are enhanced services, are alarm monitoring, and are grandfathered under section 275(a)(2).⁴⁹

Alarm monitoring services are defined by Congress in section 275(e), and it is that definition which a service must satisfy and which determines whether a service is grandfathered. It is also that definition which implicates the nondiscrimination obligation imposed upon incumbent LECs by section 275(b)(1).

The commenters ignore the definition. They place great importance upon whether a service possesses an enhanced or information service component and they disagree about the meaning of such a designation, upon whether a service includes a CPE component, upon whether the provider has a direct relationship with an end-user subscriber, etc. None of these factors are mentioned in the definition.

Attempts to superimpose qualities, characteristics, or frameworks upon the statutory definition are misguided. The regulatory framework for enhanced services was developed before the 1996 Act. It is not obvious that Congress incorporated that framework into its definition of alarm monitoring services in section 275(e). If a service possesses the characteristics in section 275(e), it is an alarm monitoring service. As U S WEST demonstrated in its Comments, Scan-

Spectrum” Transmission Services, Memorandum Opinion and Order, 58 Rad. Reg. 2d (P&F) 881, 883 ¶ 6 (1985).

⁴⁹ Comments of BellSouth at 23.

Alert and Versanet both satisfy that definition.⁵⁰ They are both alarm monitoring services and they are both grandfathered.

B. BOCs And Their Affiliates Are Permitted To Market Alarm Monitoring Services Provided By Unaffiliated Alarm Monitoring Companies (Notice ¶ 69)

AICC contends that the BOCs should be prohibited from acting as a sales agent on behalf of an alarm monitoring company, even if the BOCs themselves do not provide alarm monitoring services.⁵¹ AICC argues that this represents the unauthorized provision of alarm monitoring services by the BOCs.⁵²

BellSouth, SBC Communications ("SBC"), and Ameritech contend that acting as a sales agent for an unaffiliated alarm monitoring service is not the provision of alarm monitoring by the agent.⁵³ U S WEST agrees with this conclusion. The customers to whom such alarm monitoring services would be sold are, and remain, customers of the unaffiliated alarm monitoring company. Section 275 does not prohibit or otherwise restrict an incumbent LEC from marketing and promoting alarm monitoring services offered by unaffiliated companies. Acting as a sales agent for an unaffiliated alarm monitoring company is not the provision of alarm monitoring services under section 275(e).

⁵⁰ See note 44, *supra*.

⁵¹ Comments of AICC at 17.

⁵² *Id.*

⁵³ Comments of BellSouth at 23-24; Comments of SBC at 19; Comments of Ameritech at 27-28.

C. The Nondiscrimination Requirement In Section 275(b)(1)
 Applies Only To Incumbent LECs Who Are Providing
 Alarm Monitoring Services (Notice ¶¶ 70, 74)

Section 275(b)(1) imposes an obligation on incumbent LECs to provide to unaffiliated entities, upon reasonable request, “with the network services it provides to its own alarm monitoring operations” on nondiscriminatory terms and conditions (emphasis added).

AICC contends that the Commission should make it clear that “an incumbent LEC does not satisfy Section 275(b)(1) unless it has made all network services it uses in its own alarm monitoring operations available to unaffiliated alarm monitoring providers also.”⁵⁴ AICC’s comment implies that all BOCs are presently subject to this nondiscrimination requirement.

Section 275(b)(1) imposes the nondiscrimination obligation upon an incumbent LEC who offers “its own alarm monitoring operations.” The Commission tentatively concludes in the Notice that Ameritech is the only BOC that provides alarm monitoring services as defined by section 275(e).⁵⁵ AICC agrees with that conclusion.⁵⁶ AICC contends that no other BOC is currently providing alarm monitoring services.

Although U S WEST disagrees with AICC’s conclusion, assuming arguendo that Ameritech is the only BOC who currently provides alarm monitoring services,

⁵⁴ Comments of AICC at 28.

⁵⁵ Notice ¶ 70.

⁵⁶ Comments of AICC at 13.

it follows, therefore, that Ameritech is the only BOC who is currently subject to the nondiscrimination requirement in section 275(b)(1).

According to section 275(b)(1), the nondiscrimination requirement with regard to the provision of network services applies only to incumbent LECs who use network services for their own alarm monitoring operations. If none of the BOCs, with the exception of Ameritech, are currently providing alarm monitoring services, the Commission should confirm that the nondiscrimination requirement in section 275(b)(1) applies only to Ameritech. It will apply to the other BOCs not earlier than five years after the date of enactment of the 1996 Act and then only if they begin to provide alarm monitoring services.

V. CONCLUSION

Most of the requirements of sections 260, 274, and 275 are clear, unambiguous, and require little interpretation. Some of the commenters have urged the Commission to read into these sections additional requirements, obligations, and prohibitions which were not intended or required by Congress.

U S WEST's comments are based upon the plain meaning of the language used in those sections. The Commission should follow the same approach.

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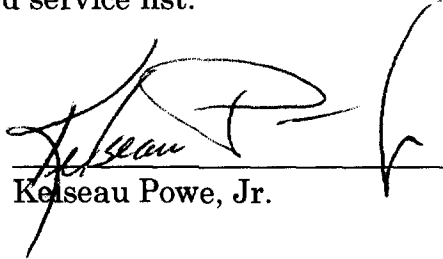
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September 20, 1996

CERTIFICATE OF SERVICE

I, Kelseau Powe, Jr., do hereby certify that on this 20th day of September, 1996, I have caused a copy of the foregoing **REPLY COMMENTS OF U S WEST, INC.** to be served via first-class United States Mail, postage prepaid, upon the persons listed on the attached service list.



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